

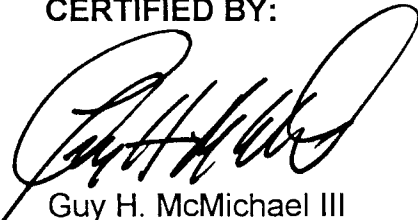
May 21, 20Q1

## COMPROMISE OF DEBTS

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) debt management procedures formerly contained in VA Manual MP-4, Part VIII, Chapter 22.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook establishes the procedural guidelines for the compromise of debts owed to VA.
- 3. RESPONSIBLE OFFICE:** Cash and Debt Management Division (047GCI), Office of the Deputy Assistant Secretary for Finance.
- 4. RELATED DIRECTIVE:** VA Directive 4800, Debt Management.
- 5. RESCISSIONS:** VA Manual MP-4, Part VIII, Chapter 22, dated September 22, 1992.

CERTIFIED BY:

BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS



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## COMPROMISE OF DEBTS

**1. PURPOSE AND SCOPE.** This handbook establishes standardized Department-wide procedures for administering the compromise of debts.

**2. RESPONSIBILITY.** The Chief of the fiscal activity must ensure that appropriate procedures in accordance with this Handbook are followed for administering the debt compromise process.

### 3. EXPLORATION OF COMPROMISE

a. The Chief of the fiscal activity will fully consider the feasibility of a compromise when the debtor is clearly unable to pay the full amount within a reasonable length of time or the debtor refuses to pay the debt in full and the Government appears unable to enforce full collection. When the facts indicate a compromise should be considered, the debtor will be notified. If a standard form letter does not exist or is not appropriate for providing this notice in a particular case, a specially composed letter to the debtor should contain a paragraph composed as follows:

“The Department of Veterans Affairs has authority to accept a lesser amount in full settlement. If you desire to liquidate the indebtedness by the payment of a lesser amount representing a substantial portion of the debt or any reasonable amount in relation to your financial status, we will give your offer careful consideration.”

b. Before referring an indebtedness for enforced collection, the Chief of the fiscal activity will ensure each debtor has been given the opportunity, when appropriate, to make a compromise offer. If a compromise offer was not sought or if the compromise offer was denied, this information will be documented and prepared as an attachment to VA Form 4-5285, Certificate of Indebtedness, and entered on VA Form 4-9996, Claims Collection Litigation Report, for all Regional Counsels (RC) referrals.

c. An offer of compromise should be sought in most cases, except where:

- (1) The debtor is deceased and there is no evidence of an estate or assets;
- (2) The debt has been discharged in bankruptcy; or
- (3) The case has been referred for enforced collection.

d. The action(s) taken on cases considered for compromise will be documented in the “Remarks” section of VA Form 4-I 042, Referral of Indebtedness to Committee on Waivers and Compromises, or in an appropriate accounts receivable record.

**4. COMPROMISE AUTHORITY - DEBT MANAGEMENT CENTER.** A special Committee on Compromises at the Debt Management Center has compromise authority on all benefit debts not in excess of \$100,000 under its collection jurisdiction.

**5. COMPROMISE AUTHORITY UP TO \$1,000 - CHIEF OF THE FISCAL ACTIVITY**

a. **General.** The Chief of the fiscal activity should refer to VA Handbook 4060.5, Suspension of Collection Action, (formerly found in MP-4, Part I, Chapter 8) for the complete standards for the compromise of debts.

b. Except for home loan program debts under 38 U.S.C. Chapter 37, the Chief of the fiscal activity has the authority on all debts (including salary, travel, vendor debts, etc.) not in excess of \$1,000, exclusive of interest, administrative costs, penalties, and other charges, to:

(1) Reject an offer of compromise, or

(2) Accept compromise offers of 50 percent or more on the total debt, or

(3) Recommend the Committee on Waivers and Compromises (COWC) accept a compromise offer of less than 50 percent.

c. Any compromise offer, in order to be acceptable, must be advantageous to the Government. The Chief of the fiscal activity may reject a compromise offer when in his/her opinion the debt should be collected in full, or the amount proposed as a compromise is not acceptable. The Chief of the fiscal activity should use VA Form 45658, Decision on Offer for Compromise of Indebtedness, to reflect actions he/she has taken on offers of compromise. The debtor will be advised of the reasons for rejecting the offer and, if appropriate, the amount that would be acceptable. The original decision accepting or rejecting the compromise offer will be signed by the Chief of the fiscal activity and filed in the claims file/patient folder. Decisions are subject to Central Office (047GC) review.

**6. COMPROMISE AUTHORITY FROM \$1,000 TO \$100,000 - COWC.** A COWC has sole jurisdiction for consideration of a compromise offer on all home loan program debts and on any other type of debt in excess of \$1,000, exclusive of interest, administrative costs, penalties, and other charges. A Committee can accept or reject a compromise offer on a home loan program debt regardless of the debt amount. However, the committee's authority to accept a compromise offer on other debts is limited to debts of \$100,000 or less, exclusive of interest, administrative costs, penalties, and other charges. A Committee also has the authority to reject or recommend acceptance of a compromise offer on other than loan program debts in excess of \$100,000. In addition, a compromise offer on a debt of \$1,000 or less, where the Chief of the fiscal activity only has authority to recommend acceptance, should also be referred to the COWC of jurisdiction, along with a copy of the VA Form 4-5658.

**7. COMPROMISE AUTHORITY OVER \$100,000 - DEPARTMENT OF JUSTICE.** When a debt (other than a home loan program debt) exceeds \$100,000, exclusive of interest, administrative costs, penalties, and other charges, the authority to accept a compromise offer lies exclusively with the Department of Justice (DOJ). The COWC of jurisdiction should first evaluate the

offer and, if the COWC determines the offer is advantageous to the Government, a memorandum recommending this determination will be prepared and forwarded to the fiscal activity. The fiscal activity will send the Committee's recommendation and the Claims Collection Litigation Report (CCLR) to VA Central Office, Cash and Debt Management Division (047GCI) for referral to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530.

**8. RELEASE OF DEBTOR.** When advising the debtor of the acceptance of a compromise offer, any reservations or specific conditions stated in the Committee's decision should be included in the acceptance letter. It is especially important that any statement also be included regarding the reservation of the Government's right to collect from other obligors. Also, on a home loan program debt, the debtor should be advised the compromise of the debt does not restore entitlement for another loan unless the full amount of the debt (principal and interest at the time of write-off) is repaid.

**9. ADVICE FROM REGIONAL COUNSEL.** If the Chief of the fiscal activity is uncertain as to the legality of a compromise offer, the Chief may seek the advice of the Regional Counsel at the regional office of jurisdiction. It is important where there is a co-obligor that care be taken to ensure the compromise is handled so as not to legally release other debtors.

**10. FRIVOLOUS OFFERS.** The Chief of the fiscal activity will not refer a compromise offer to the COWC when a determination has been made the offer is frivolous or there is reason to believe the offer is not made in earnest. In such cases, the Chief of the fiscal activity will advise the debtor the offer is refused because it is not realistic when compared with the amount of the debt and debtor's ability to pay.

## **11. ENTITLEMENT CHARGING**

a. **Education Benefit Entitlement Charging.** Entitlement is charged equivalent to the amount written off when an education debt is compromised.

b. **Home Loan Program Entitlement Charging and Restoration.** Basic loan entitlement is reduced by entitlement used to obtain a direct, guaranteed or insured housing loan. If the loan is defaulted and VA incurs a loss on such a loan, a debt is established against the veteran. When the debt is compromised, the amount compromised must be paid in full to restore previously used entitlement.

**12. DEPOSIT OF REMITTANCE.** An acceptance and deposit of a partial remittance accompanied by a compromise offer cannot be construed to be an acceptance of the compromise offer, and is not binding on VA. Any funds submitted as compromise offers will be returned or refunded to the remitter if the compromise offer is rejected.